



# Food Safety Standards in Child Care Settings

Child care providers are in a unique position to address the childhood obesity epidemic and tobacco-related health hazards. The Public Health Law Center has developed a series of resources designed to inform and support Minnesota efforts to cultivate child care settings that promote healthy eating, positive exercise habits, reduced screen time, and tobacco-free environments. This fact sheet outlines how food safety standards intersect with the child care setting.

Initiatives to promote healthy eating in child care settings can be affected by state and local food safety laws. For example, a child care provider who serves a head of broccoli, whole carrots or a whole tomato may not need a food license. Under some state or local laws a food license would be required if a provider cuts up those vegetables and prepares a salad. Child care centers must have a food service license if they prepare food on site. However, licensed family child care providers<sup>1</sup> are not required to have a food service license even if they prepare meals on site.

Another example is when a food safety regulation requires a child care provider to have commercial-grade kitchen equipment if the provider prepares and serves food. Having a commercial kitchen can be cost prohibitive, and may result in a provider opting to serve only catered-in or pre-packaged food that does not require special kitchen equipment.

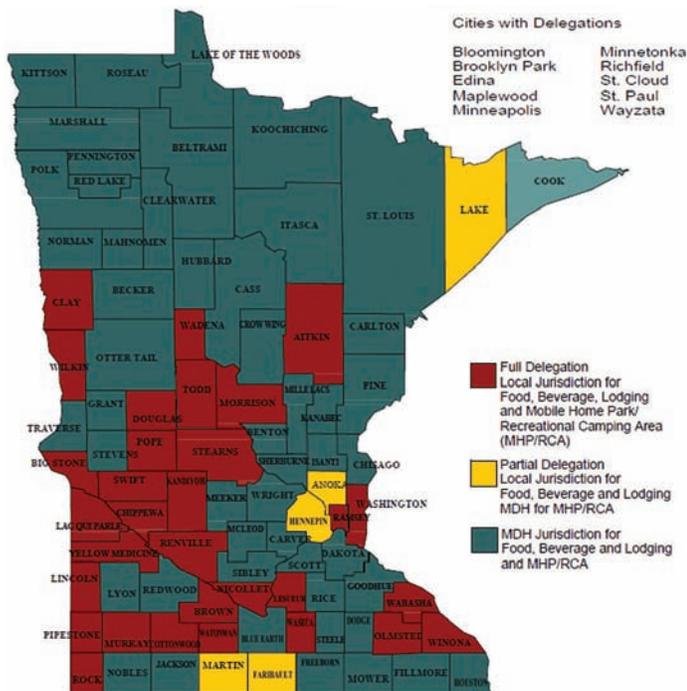
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**Figure 1: Minnesota County Delegation Map  
January 1, 2013**



Source: <http://www.health.state.mn.us/divs/eh/food/license/images/delmap.jpg>

Sometimes child care programming is specifically excluded from “food establishment” standards, depending on the type of program or the number of children served. However, the differences in terminology and in determining the number of children served can create confusion. It can get even more complicated if providers have to look to both state and local laws to figure out if they can serve children food without a permit. Situations like these demonstrate the importance of understanding the interaction between the child care and food safety laws. In situations where a child care program is excluded from “food establishment” standards, the regulations may include other food safety requirements.

### What is the Minnesota Food Code?

The Minnesota Food Code is a set of standards that food establishments must comply with in

the handling, storing, preparation and service of food.<sup>2</sup> The standards cover topics like personal cleanliness,<sup>3</sup> hygienic practices,<sup>4</sup> food quality,<sup>5</sup> protecting against contamination,<sup>6</sup> proper cooking, cooling, and storage practices,<sup>7</sup> equipment requirements,<sup>8</sup> and inspection policies.<sup>9</sup>

### What is a food establishment?

A food establishment is defined as any operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.<sup>10</sup> The regulations provide some examples, specifically listing a restaurant, market, grocery store, convenience store, special event food stand, school, boarding establishment, vending machine, deli, or bakery. The list does not include all operations considered “food establishments,” because the list would be too cumbersome and could accidentally omit an operation. To determine if an operation is a food establishment, review the definition and then compare the operation to the examples given in the regulation, being careful to note all exclusions.<sup>11</sup>

### Who is in charge of licensing food establishments?

The Minnesota Department of Health (MDH) is in charge of licensing most food establishments.<sup>12</sup> However, MDH has given authority to some local health agencies to provide licenses for food, beverage, and lodging establishments in Minnesota (Figure 1).<sup>13</sup> Where the food establishment is located determines who will provide the license.<sup>14</sup> For example, food establishments in Dakota County are licensed by MDH because no authority has been delegated to a local agency.<sup>15</sup> However, food establishments in Saint Paul are licensed by the Saint Paul-Ramsey County Department of Public Health because MDH has delegated full authority to the local jurisdiction



agreements between the state and local agencies require that local ordinances not be in conflict with the standards set in the food code. And, with some types of food establishments (grocery and convenience stores), the Minnesota Food Code must be adopted as the minimum/maximum standards.<sup>21</sup> The uncertainty in the law as to when local governments can require higher standards and when they cannot means that typically local agencies simply adopt the Minnesota Food Code.

### **Are licensed family child care providers required to comply with the food code regulations?**

Licensed family child care providers are not considered a “food establishments,” and therefore do not need to follow the food code standards.<sup>22</sup> Due to the difference in licensing requirements, licensed family child care providers are not required to have commercial kitchens.

### **So licensed family child care providers do not have to comply with the food code. Are they required to comply with any food safety requirements?**

Yes. State licensing regulations for licensed family child care providers outline food safety requirements.<sup>23</sup> Licensed family child care providers have special requirements for hand washing, food and utensil storage, proper heating and refrigeration of foods, and safe and clean appliances. Also, the regulations do not allow serving certain home-canned food products to children in child care.<sup>24</sup>

### **Are child care centers required to comply with the food code regulations?**

Yes. Unlike licensed family child care providers, the food code does not specifically exempt child care centers from food establishment status. In addition,

in Ramsey County.<sup>16</sup> In five counties,<sup>17</sup> MDH has given partial authority to local health agencies. These counties present special situations for licensing. For example, in Hennepin County, MDH maintains some authority, Hennepin County Environmental Health is responsible for part of the area, and eight<sup>18</sup> of the cities that make up the county have enacted their own licensing program.<sup>19</sup>

### **Can local governments require higher standards for establishments serving food?**

Theoretically, local governments could set higher standards than those required by the Minnesota Food Code, but typically they do not.<sup>20</sup> Delegation

the state licensing requirements specifically require that child care centers follow the rules for food and beverage establishments found in the food code.<sup>25</sup>

## Do child care centers need to comply with all parts of the food code?

No, child care centers can be exempt from two regulations, depending on the size of the operation. The food code requires that an owner or operator of a food establishment employ a full-time certified food manager.<sup>26</sup> Food managers<sup>27</sup> are in charge of the day-to-day operations, developing and implementing policies, training employees, and self-inspections.<sup>28</sup> However, a certified food manager is not required in centers that prepare food for 18 or fewer people per mealtime.<sup>29</sup> The food code also requires food establishments to have commercial-grade equipment, like commercial-type spray dishwashing machines and food service

refrigerators.<sup>30</sup> Domestic equipment may be substituted for commercial equipment in centers that serve ten or fewer individuals.<sup>31</sup>

## Conclusion

The interaction between child care and food safety laws is important because child care healthy eating efforts can be affected by state and local food codes. When determining what parts of the food code (if any) apply to child care settings:

- Know who is in charge of licensing;
- Pay close attention to the definitions within the regulations;
- Know which establishments are specifically excluded from compliance; and
- Be aware of any special exemptions within the code.

*Last updated: January 2013*

The Public Health Law Center thanks Hanna Kite, MPH, and Sarah Hall, for their assistance in writing and editing these series of resources, as well as Lyndsey Guthrey for her work on the project. The Public Health Law Center would also like to thank the following individuals for their review and comments on earlier drafts of these resources: Rachel Callanan, JD MNM, Midwest Affiliate of the American Heart Association; Jenna Carter, MPH, Blue Cross and Blue Shield of Minnesota; Katy Chase Minnesota Licensed Family Child Care Association; and Dr. Marilyn S. Nanney, PhD, MPH, RD, Associate Professor in the Department of Family Medicine & Community Health of the University of Minnesota Medical School.



This publication was prepared by the Public Health Law Center at William Mitchell College of Law, St. Paul, Minnesota, with financial support provided by Blue Cross® and Blue Shield® of Minnesota, a nonprofit independent licensee of the Blue Cross and Blue Shield Association. The Center used information gathered as part of a Robert Wood Johnson Foundation's Healthy Eating Research grant (#69299) regarding the child care setting.

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## Endnotes

- <sup>1</sup> Minnesota law refers to day care homes in statute and regulation, but this fact sheets utilizes the industry used term “licensed family child care providers.”
- <sup>2</sup> See MINN. R. 4626 (2012).
- <sup>3</sup> See MINN. R. 4626.0065– 4626.0100 (2012).
- <sup>4</sup> See MINN. R. 4626.0105– 4626.0120 (2012).
- <sup>5</sup> See MINN. R. 4626.0125– 4626.0220 (2012).
- <sup>6</sup> See MINN. R. 4626.0225– 4626.0335 (2012).
- <sup>7</sup> See MINN. R. 4626.0340– 4626.0420 (2012).
- <sup>8</sup> See MINN. R. 4626.0450– 4626.0905 (2012).
- <sup>9</sup> See MINN. R. 4626.1785– 4626.1815 (2012).
- <sup>10</sup> See MINN. R. 4626.0020 (35)(A)(1) (2012).
- <sup>11</sup> See *id.* (35)(C) (2012).
- <sup>12</sup> The Minnesota Department of Agriculture is in charge of licensing certain special food establishments, such as in-store delis, grocery stores, and butcher shops.
- <sup>13</sup> Minnesota Department of Health, *Who will license the establishment?* <http://www.health.state.mn.us/divs/eh/food/license/index.html>.
- <sup>14</sup> Minnesota Department of Health, *County Delegation Map of Food, Beverage and Lodging and Mobile Home Park/Recreation Camping Area Jurisdiction* (2012), <http://www.health.state.mn.us/divs/eh/food/license/images/delmap.jpg>.
- <sup>15</sup> *Id.*
- <sup>16</sup> Ramsey County Department of Public Health, *Food Protection Ordinance § 202–398* (2002) <http://www.co.ramsey.mn.us/NR/rdonlyres/888CD8A2-5AF7-4667-8977-60FFC649A8A6/11878/FoodProtectionOrdinance2002398.pdf>.
- <sup>17</sup> These counties are Anoka County, Faribault County, Hennepin County, Lake County, and Martin County.
- <sup>18</sup> These counties are Bloomington, Brooklyn Park, Edina, Minneapolis, Minnetonka, Richfield, St. Louis Park, and Wayzata.
- <sup>19</sup> Hennepin County, Minnesota, FOOD, BEVERAGE, & LODGING (2012), <http://www.hennepin.us/portal/site/HennepinUS/menuitem.b1ab75471750e40fa01dfb47ccf06498/?vgnnextoid=56f0a6f0833f3210VgnVCM20000048114689RCRD>.
- <sup>20</sup> Email from Mark Clary, Saint Paul–Ramsey County Department of Public Health, Environmental Health Section (Nov. 19, 2012, 13:28 CST) (on file with author).
- <sup>21</sup> MINN. STAT. § 28A4.075 (2001).
- <sup>22</sup> MINN. R. 4626.0020 (35)(C)(2) (2012); MINN. STAT. § 157.22(5) (2012).
- <sup>23</sup> MINN. R. 9502.0445(44) (2007).
- <sup>24</sup> Home-canned nonacid or low-acid foods (meats, fish, poultry, and more vegetables) may not be served to children. Properly canned tomatoes, pickled foods, and canned fruits are allowed.
- <sup>25</sup> MINN. R. 9503.0145(3) (2010).
- <sup>26</sup> MINN. R. 4626.2010(1) (2012).
- <sup>27</sup> See MINN. R. 4626.2015 (2012). “Certified food manager” means an individual who has a valid Minnesota food manager’s certification under part 4626.2015.
- <sup>28</sup> MINN. R. 4626.2010(5) (2012).
- <sup>29</sup> MINN. R. 4626.2010(4)(B) (2012).
- <sup>30</sup> MINN. R. 4626.0505 (2012).
- <sup>31</sup> MINN. R. 4626.0505 (2012).